

ORDINANCE NO. 2023-1574

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 104 ACRES OF LAND LOCATED SOUTH OF THE SOUTHWEST CORNER OF LITCHFIELD ROAD AND LOWER BUCKEYE ROAD FROM I-1 (LIGHT INDUSTRIAL) TO I-1 (LIGHT INDUSTRIAL) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, the property subject to this Ordinance consists of approximately 104 acres generally located south of the southwest corner of Litchfield Road and Lower Buckeye Road, as more particularly described in that certain document titled "Legal Description – SDC Campus Rezone – PAD Overlay," which document was declared a public record by Resolution No. 2023-2319, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property");

WHEREAS, the zoning for the Property is I-1 (Light Industrial) and the General Plan Land Use Plan designates the Property as Industrial, which provides areas for more intensive business and employment uses which have a greater impact on surrounding land uses; and

WHEREAS, on May 24, 2023, Stream Data Centers (SDC) received site plan approval to develop a data center campus on the Property, comprised of five two-story 50-foot tall 400,000 square foot data center buildings; and

WHEREAS, the cooling system for each of the five buildings will utilize air-cooled chillers located on the roof to decrease water usage; and

WHEREAS, Zoning Ordinance Article 3-4-3 Industrial Zoning Districts Standards requires the screening of all roof mounted mechanical equipment from street view; and

WHEREAS, Zoning Ordinance Article 8-3-B Height Limitations allows non-residential building height to be increased by up to ten (10) feet for unoccupied architectural elements such as towers, chimneys, and mechanical equipment screening, provided that the architectural element does not exceed 50% of the linear length of any building elevation or 50% of the total roof area; and

WHEREAS, with the rooftop placement of the chillers, and the necessary separation between the chillers, potentially 90% or more of the roof, along certain building elevations, will need to be screened to meet Zoning Ordinance Industrial Districts Standards; and

WHEREAS, this request is to rezone the Property from I-1 (Light Industrial) to I-1 (Light Industrial) with a PAD Overlay to allow as much screening as possible for the rooftop chillers by removing the 50% maximum from both the linear length of any elevation and the total rooftop area from Zoning Ordinance Article 8-3-B Height Limitations as applicable to the Property; and

WHEREAS, a rezoning request requires review by the Planning and Zoning Commission and final decision by the City Council through the public hearing process, and to be approved, a rezoning request must be found in conformance with the General Plan and to not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, this rezoning request is consistent with the designation of the Property in the General Plan as Industrial, and the allowance of additional screening will not adversely impact the surrounding area; and

WHEREAS, public notice that this rezoning request was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on June 28, 2023, appeared in the Arizona Republic Southwest Valley edition on June 9, 2023; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on June 28, 2023, to consider the rezoning of the Property, and the Commission voted (X-X) to recommend approval the proposed rezoning; and

WHEREAS, public notice that this rezoning request is to be considered and reviewed at a public hearing held before the City Council on July 10, 2023, appeared in the Arizona Republic Southwest Valley edition on June 9, 2023; and

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona find the adoption of this Ordinance to be in the best interests of the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the City of Goodyear;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. DESCRIPTION OF THE PROPERTY BEING REZONED

This Ordinance No. 2023-1574 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located south of the southwest corner of Litchfield Road and Lower Buckeye Road as legally described in that certain document titled Legal Description – SDC Campus Rezone – PAD Overlay, which document was declared a public record by Resolution No. 2023-2319 and which is referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. REZONING

The Property is conditionally rezoned from the I-1 (Light Industrial) Zoning District to the I-1 (Light Industrial) Zoning District with a Planned Area Development (PAD) Overlay. The PAD Overlay hereby amends Zoning Ordinance Article 8-3(B), as applicable to the Property, as follows:

- B. The maximum building height permitted for non-residential uses may be increased 10 feet above the building height limit for unoccupied building architectural elements, such as parapet walls, chimneys, towers, domes and decorative masonry or metal framework, that are necessary to achieve the objectives and requirements of the City Design Guidelines to provide architectural interest and diversity in building elevations or variations in roof form and horizontal lines; ~~provided that the total amount of such architectural elements that exceed the building~~

~~height limit do not exceed 50% of the linear length of any building elevation or exceed 50% of the total roof area of the building.~~

SECTION 3. STIPULATION

The rezoning of the property is subject to the following stipulation:

1. The Property shall be developed in accordance with the requirements of the City of Goodyear Zoning Ordinance as it may be amended from time to time applicable to the I-1 Zoning District and Zoning Ordinance Article 8-3(B) as amended herein.

SECTION 4. AMENDMENT OF ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning of the Property provided for herein by the adoption of that certain document titled "Official Supplementary Zoning Map No. 23-04", declared a public record by Resolution No. 2023-2319 and which is referred to and made a part hereof as if fully set forth in this Ordinance.

SECTION 5. ABRIDGEMENT OF OTHER LAWS

Except where expressly provided, nothing contained herein shall be construed to be an abridgement of any other ordinance, regulation, or requirement of the city of Goodyear.

SECTION 6. CORRECTIONS

The Zoning Administrator, City Clerk, and the codifiers of this Ordinance are authorized to make necessary clerical corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 7. SEVERABILITY

If any provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of the ordinance or parts thereof.

SECTION 8. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 9. PENALTIES

Any person who violates any provision of this Ordinance shall be subject to penalties set forth in Section 1-2-3 of the city of Goodyear Zoning Ordinance as it may be amended from time to time and which currently provides:

Section 1-2-3 Violations and Penalties

- A. It is unlawful to construct, erect, install, alter, change, maintain, use or to permit the construction, erection, installation, alteration, change, maintenance, or use of any house, building, structure, sign, landscaped area, parking lot or fence, or to permit the use of any lot or land contrary to, or in violation of any provisions of this Ordinance, or of any conditions, stipulations or requirements included as a condition of any applicable approval. Any land use that is specifically prohibited by this Ordinance or is unspecified and not classified by the Zoning Administrator is prohibited in any district.
- B. Responsible Party. The responsible party for any violations hereunder is the owner of personal property improvements or real property and/or person in possession or control of any personal property improvements or real property (Person). The responsible party shall be responsible for any violations hereunder whether or not the responsible party or its agent committed the prohibited act(s) or neglected to prevent the commission of the prohibited act(s) by another.
- C. Every Responsible Party shall be deemed responsible or guilty of a separate offense for each and every day during which any violation is committed or continued.
- D. Penalty. Any Person who violates any of the provisions of this Ordinance and any amendments there to and/or any conditions, stipulations or requirements included as a condition of any applicable approval shall be:
 - 1. Subject to civil sanctions of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per offense; or
 - 2. Guilty of a class 1 misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), or by a term of probation not exceeding three (3) years, or imprisonment for a term not exceeding six (6) months, or punishable by a combination of fine, probation or imprisonment. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the city of Goodyear Municipal Court for violations hereunder.

SECTION 10. RECORDATION

This Ordinance shall be recorded with the Maricopa County Recorder's Office.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20____.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney